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C O N F I D E N T I A L SECTION 01 OF 02 TEL AVIV 004655

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E.O. 12958: DECL: 07/26/2015

TAGS: PGOV PHUM IS GOI INTERNAL

SUBJECT: MK OMRI SHARON NEARS POSSIBLE PLEA BARGAIN AS NEW LAW REMOVES AUTOMATIC PARLIAMENTARY IMMUNITY

Classified By: Ambassador Daniel C. Kurtzer for reasons 1.4 (b,d).

11. (C) SUMMARY. Prime Minister Sharon's son Omri, a Likud MK since 2003, is nearing a plea bargain with Attorney General Menachem Mazuz over charges related to his role in the alleged illegal financing of Prime Minister Sharon's 1999 leadership campaign for the Likud Party. A political and legal controversy has erupted over whether Mazuz should offer Omri Sharon a deal without taking him to trial, where details of PM Sharon's involvement could be exposed. Mazuz is reportedly considering whether to charge Omri with criminal fraud, which carries a maximum of seven years in jail, or charge him only for violations of the campaign finance laws, which carries only a fine. Omri's case has gotten mixed up with legislation passed by the Knesset July 25 that removes automatic parliamentary immunity for MKs from prosecution, and requires that they petition the Knesset to keep their immunity. According to media and Embassy sources, however, Omri Sharon has already indicated that he would not have opposed the lifting of his parliamentary immunity. END SUMMARY.

Omri the Fall Guy?

12. (C) Attorney General Mazuz decided February 17, 2005 that he would recommend that Omri Sharon be indicted, while at the same time deciding to close the file against Prime Minister Sharon and his top aides (including Senior Advisor Dov Weissglas) finding that, "There is not enough evidence to prove that Sharon was aware of the secret funding... and the violation of the law...." Israeli NGO Movement for Quality in Government (MQG) attorney Daniel Kayros told Poloff July 26 that, in essence, Omri became the "fall guy," and was left holding the bag for alleged campaign finance violations and criminal fraud associated with his father's 1999 campaign.

Plea Bargain and What's under the Carpet

13. (C) With word out that Omri may be reaching a deal with Mazuz, media pundits, some of PM Sharon's political opponents, and MQG have criticized Mazuz for indicating he will not go to trial. According to Kolev, "Omri has already declared he is not hiding behind (parliamentary) immunity...that he would give it up." Kolev said that Omri is now in the final days of bargaining with the AG over the charges and the sentence. Attorney Kayros told Poloff that MQG has sent a letter to Mazuz requesting that Mazuz not accept a plea bargain, and take Omri to trial instead. "The content of what will not be brought before the court is extremely important" to the public interest, according to Kayros. Kayros asserted that the public has the right to know whether Prime Minister Sharon had been involved in the alleged campaign financing scam. Yahad/Meretz MK Yossi Sarid and Shinui MK Ilan Shalgi have reportedly called on Mazuz not to accept a plea bargain, but to take Omri to trial in order to bring to light any involvement of Prime Minister Sharon in the campaign financing case.

Implications of New Immunity Law

14. (C) According to the MQG attorneys, the larger legal issue that has been lost in the media's reporting on the new law and on Omri, is how the law would actually broaden the Knesset's role in deciding whether or not to lift an MK's immunity. While the new law removes automatic immunity of an MK, and places the onus on the MK to apply for immunity with the Knesset, the MQG lawyers argue that the law actually affords MKs and the Knesset additional reasons on which to base a decision not to strip an MK's immunity, such as that the MK already has faced disciplinary action, or that a criminal trial is not in the public interest.

15. (C) MQG attorney Kayros pointed out that the new law was actually "born in the sin of the Gorlovsky case." In this case, the Knesset refused to lift the parliamentary immunity of Likud MK Michael Gorlovsky for his unauthorized voting for an absent MK colleague in a May 2003 Knesset vote. Notwithstanding the High Court decision in June that the Knesset's decision was illegal, the Knesset House Committee

voted against lifting Gorlovsky's immunity. The High Court reasoned that the Knesset should only grant immunity to protect an MK against politically motivated prosecution or where the government was trying to prevent an MK from fulfilling his/her Knesset duties, and not to shield lawbreakers. Pursuant to the new law, Kolev argues, the Knesset is placing itself more in the role of judicial authority than lawmaker. MQG has appealed the Knesset's decision to the High Court.

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KURTZER